

REMARKS

Claims 1-29 are pending in this application. Claims 11-22 are withdrawn from consideration. By this Amendment, claims 1, 7-8, 11 and 27-29 are amended. No new matter is added by this amendment. Reconsideration based on the above amendments and following remarks is respectfully requested.

The courtesies extended to Applicant's representative by Examiner Cole at the interview held January 17, 2007, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

I. Rejoinder

In accordance with MPEP 821.04, if product claims are elected and subsequently allowed, rejoinder of non-elected process claims that depend from or otherwise include all of the limitations of allowed product claims is permitted. Withdrawn claim 11 includes all the features of claim 1. Thus, upon allowance of claim 1, rejoinder of claim 11 as well as claims 12-22 dependent therefrom is requested.

II. Double Patenting Rejection

The Office Action rejects claims 1-20 and 23-26 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 and 36-38 of co-pending application 11/134,292. As discussed during the personal interview, this rejection is respectfully traversed.

The term "thermoplastic resin," as taught by the '292 application, does not include elastomers within its definition. Specifically, the term "thermoplastic resin" is defined in the specification at paragraph [0031] wherein the Applicants, acting as their own lexicographer, expressly state that the "thermoplastic resin in this embodiment is a generally-used plastic which exhibits plasticity upon heating and solidifies upon cooling, and excludes a rubber

composition such as a thermoplastic elastomer". (Emphasis added). Accordingly, the term "thermoplastic resin" as used in the '292 application cannot include within its definition "elastomers" such as those claimed in the present application. Applicants appreciate the indication during the personal interview that the Examiner withdraw the rejection in light of the foregoing.

III. The Claims Define Allowable Subject Matter

The Office Action rejects claims 1-10 and 23-29 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over WO 90/10296. As discussed during the personal interview, the rejection is respectfully traversed.

The Office Action asserts that elastomers of WO '296 and the '814 patent comprise an unsaturated bond or group and this have the same affinity to carbon nanofibers in the same spin-spin relaxation times as presently claimed. However, neither the WO '296 nor the '814 patent disclose conditions of temperature or nips. Thus, neither a roll distance nor roll temperature is a prerequisite in WO '296 and the '814 patent, and thus is impossible to disperse carbon nanofibers uniformly in elastomer as presently disclosed. See attached analogous test data indicated that elastomers are not uniformly dispersed under such conditions due to the increase in temperature during mixing and that the first and second spin-spin relaxation times do not match with the values presently claimed.

Furthermore, WO '296 expressly indicates that "[it] is essential that the carbon fibers used in this invention are in the form of inter-twined conglomerations" at page 31, line 33- page 32, line 7. Thus, one of ordinary skill in the art seeking to achieve uniform dispersal of carbon nanofibers in elastomer would be lead away from the teachings of WO '296.

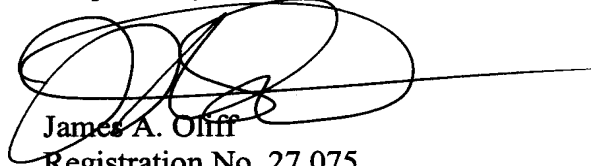
Applicants appreciate the indication during the personal interview that the claims as amended obviate the rejection in light of the foregoing. Withdrawal of the rejection is respectfully requested.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:LMS/sqb

Attachment:

Petition for Extension of Time

Date: January 25, 2007

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